

**DEPARTMENT OF STATE REVENUE**

**LETTER OF FINDINGS NUMBER: 98-0562P**

**Gross Income Tax  
Calendar Years 1994, 1995, and 1996**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

**ISSUE(S)**

I. **Tax Administration** – Penalty

**Authority:** IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

**STATEMENT OF FACTS**

Taxpayer is incorporated in Massachusetts and has sales and service representatives in Indiana. It maintains service contracts along with related equipment, and equipment under sales type lease contracts.

Taxpayer was audited for calendar years 1994, 1995, and 1996 that resulted in assessments to service income at the high rate of tax. Taxpayer filed IT-20 returns with no gross income tax due in 1994 and 1995. In 1996, it began to report service receipts. Taxpayer failed to add back property taxes deducted on the Federal return.

I. **Tax Administration** –Penalty

**DISCUSSION**

Taxpayer was assessed a negligence penalty for failure to report service receipts.

Taxpayer, in a letter dated September 8, 1998 protested penalties assessed because this was an initial tax examination, the adjustments made were changes they were unaware of before the examination, and the tax returns were prepared by their accountants in what was represented as their best efforts. In addition, at the time of the audit, no discussion was made regarding penalties and were not given

02980562P.LOF

PAGE #2

adequate time to address the agent's issues or concerns relating to the assessment of the penalties. In good faith, taxpayer enclosed it checks for the tax and interest balances resulting from the audit and believes the explanations provided above is sufficient to abate all penalties relating to the examination.

The Indiana Code, Regulations, and instructions for filing the IT-20 return are clear regarding the gross income issue. The taxpayer made changes in 1996, but failed to amend the returns for 1994 and 1995. The department finds that a negligence penalty is proper.

**FINDING**

Taxpayer's protest is denied.